

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 9:30 a.m. on January 27, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Sean Ostrow, Office of the Revisor of Statutes  
Martha Dorsey, Kansas Legislative Research Department  
Reed Holwegner, Kansas Legislative Research Department  
Carolyn Long, Committee Assistant

Conferees appearing before the Committee:

Brad Bryant, Deputy Assistant Secretary of State, Elections and Legislative Matters  
Elizabeth Ensley, Commissioner of Elections, Shawnee County

Others attending:

See attached list.

The Chair opened the meeting by acknowledging Ike Hedquist, a participant in the Legislative Shadow Day. Also participating were Julia Blasdel and Lewis Kristofer with Senator Brungardt and Landon Neigh with Senator Kultala.

There being no bill introductions the Chair opened the hearing on **SB 426-Concerning elections; pertaining to methods of voting absentee ballots by uniformed and overseas citizens and federal service voters.** Staff indicated that provisions in this bill were passed last year as **SB 171**. A copy of the governor's veto message, a copy of the summary of the bill and a copy of the actual bill (Attachment 1) was provided to the committee. The bill expands the type of election the military can vote in, makes technical and clarification changes, addresses transmittal issues, the qualifications of those involved with the ballot, and makes the changes necessary to comply with the 2009 Military and Overseas Voter Empowerment (MOVE) Act.

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters, speaking in favor of the legislation, re-emphasized that this would allow overseas voters to vote a full ballot at all elections; apply for, receive and return their ballots by email or other electronic means, and vote a write-in ballot if needed. It also simplifies ballot preparation in that only one ballot would be required (Attachment 2).

Elizabeth Ensley, Shawnee County Commissioner of Elections, expressed favor with this legislation stating that not only would there be preparation of only one ballot but the new wording allows federal service applications only be kept for one year as opposed to two general elections as currently stated (Attachment 3).

There being no further discussion, the hearing on **SB 426** was closed.

The Chair then opened the hearing on **SB 421 - Election crimes; increase in penalty for voting when voter unqualified.** This bill changes the penalty for illegal voting from a class A misdemeanor to a level 9, nonperson felony.

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters stated that this deals with the penalty for the act of casting a ballot by an unqualified voter (Attachment 4).

Elizabeth Ensley, Shawnee County Commissioner of Elections, said that raising this election crime to a felony would help protect the integrity of the election and discourage any attempt to vote illegally (Attachment 5).

There being no further discussion, the hearing on **SB 421** was closed.

The next meeting is scheduled for January 28, 2010. The meeting was adjourned at 10:30 a.m.

# SENATE ETHICS AND ELECTIONS COMMITTEE GUEST LIST

DATE: January 27, 2010

NAME	REPRESENTING
Landon Nigh	Kelly Kutala
Libby Enslley	Shawnee Co. Elections Comm
BRYAN A. CASICEY	SEC. OF STATE
Brad Bryant	Sec. of State
Kari Presley	Kearney & Associates

from annexing more than 65 acres of land devoted to agricultural use may prevent cities from growing in ways that would greatly benefit the economy. I have confidence that the current requirement for a county commission to approve a city's proposed annexation of property in the unincorporated county provides a safeguard from unreasonable annexation attempts.

Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto House Substitute for Senate Bill 51.

MARK PARKINSON, *Governor of Kansas*

Dated: May 22, 2009.

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SENATE BILL No. 171

AN ACT concerning elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to the candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections.

*Message to the Senate of the State of Kansas:*

This legislation contains a provision which I would be happy to sign into law, the opportunity for overseas and military voters to vote more easily. Allowing federal service voters to register and send ballots by e-mail will make it easier for more Kansans living abroad to participate. Fortunately, the Legislature still has time to send me these provisions in a clean bill before the 2010 elections.

However, this legislation also contains provisions which will discourage advance voting, burdening the democratic process in Kansas. Last year, more than 70 percent of registered voters in Kansas participated in the Presidential election. During that election, as with all elections before it, there was no conclusive evidence of voter fraud in Kansas. Despite this lack of a problem, SB 171 seeks to find a solution by adding affidavits and signature lines to an already crowded return envelope for an advance ballot. These unnecessary hurdles will inevitably confuse voters and discourage many of them from voting.

County election officials have suggested repeatedly that there is not conclusive evidence of voter fraud in Kansas. In fact, more and more Kansans are voting early; this is a trend we should be encouraging, not disrupting.

Again, I look forward to working with the Legislature next session to sign into law legislation that involves more people in our democracy, without creating new and needless obstacles to the voting process.

Therefore, pursuant to Article 2, Section 14 of the Constitution of the State of Kansas, I veto SB 171.

MARK PARKINSON, *Governor*

Dated: May 22, 2009.

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**Senate Ethics and Elections Cmte**

Date 1-27-2010

Attachment 1

## **Advance Ballots; Efficiency of Voting Process for Military and Other Federal Service Workers**

**SB 171** addresses several election topics relating to advance ballots and the efficiency of the voting process for military and other federal services voters. Details of the bill follow.

### ***Expansion of Federal Service Voters' Ballot Forms***

The bill expands the ballot forms for absentee voters living overseas who are called federal service voters under the federal Uniformed Overseas Citizens Absentee Voting Act. Prior state law excluded overseas absentee ballots from including elections involving local questions, state constitutional amendments, and political party precinct committee positions. The bill eliminates these exclusions and clarifies the ballot must include all officers and any proposition for which the voter otherwise would be entitled to vote.

### ***Transmission of a Voter's Advance Ballot***

The bill makes changes related to the security of advance voting ballots. The bill allows another person to transmit a voter's advance ballot only if the voter makes the designation in writing, both signed and dated, on the ballot envelope. Prior law stated another person could transmit the advance ballot upon request of the voter. The bill also prohibits, expressly, any person other than the voter from signing an application for an advance voting ballot, except as otherwise provided by law.

Additionally, the bill restricts the ways in which an advance ballot may be returned to the county election office. The voter him- or herself may return the ballot by personal delivery or by mail. If the voter designates another person in writing to deliver the ballot, the designated person must either mail or deliver the ballot, along with the ballot envelope, that must contain the written designation and a statement signed and dated by the designated deliverer at the time the ballot is taken from the voter, that the deliverer has not exercised undue influence on the voter's voting decisions. The ballot delivery must occur within two business days after receiving the ballot from the voter but not later than the close of polls on election day.

### ***Filing Deadline Change***

The bill moves the filing deadline up nine days for candidates for national, state, county, and township offices. The law's prior exception remains for instances when the designated deadline falls on a Saturday, Sunday, or holiday. Related deadlines dealing with reapportionment also are modified to conform with the new filing deadline.

***E-balloting for Certain Federal Services Voters***

The bill allows certain federal services voters (i.e., those residing outside the United States or those who are members of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector who cannot vote timely by mail) to apply for registration and an absentee ballot by electronic mail. The voter then may return the ballot by electronic mail under certain circumstances.

VETOED

SENATE BILL No. 171

AN ACT concerning elections; pertaining to efficiency in handling ballots from military personnel and other official services absentee voters; pertaining to advance voting ballots; pertaining to candidate filing deadlines; amending K.S.A. 25-205, 25-1218 and 25-1001 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 25-1218 is hereby amended to read as follows: 25-1218. (a) The secretary of state shall prescribe the form of official federal services absentee ballots. Such ballots shall provide for voting for all officers, ~~other than precinct committeeman and committeewoman, for whom the voter would otherwise be entitled to vote and shall also provide for voting on any proposed amendment to the constitution of the state of Kansas and any other~~ and on any proposition or question which is to be submitted to a vote of the qualified electors of the state at large for which ~~the voter would otherwise be entitled to vote.~~ Such ballots shall be uniform in size and in style of type, and the type and paper shall conform generally to that used for the regular official ballots. The respective county election officers shall cause to be prepared and printed such numbers of ballots as may be appropriate for carrying out the provisions of this act.

(b) Such ballots shall contain the title of each office to be voted for, followed by the name and address of each nominated candidate for each office, the party or independent body nominating such candidate, a designation of the political subdivision to be represented, and a blank space for writing in the name of any other person for whom the voter desires to vote; ~~except that.~~ *Except for precinct committee men and committee women* no such blank space shall be printed on the primary ballot following the title of any office for which there is a candidate.

Sec. 2. K.S.A. 2008 Supp. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) Any sick, physically disabled or illiterate voter who is unable to apply for or mark or transmit an advance voting ballot, may request assistance by a person who has signed a statement required by subsection (d) in applying for or marking an advance voting ballot.

(c) Any voted ballot may be transmitted to the county election officer by the voter or by another person ~~upon request of~~ *designated in writing by* the voter. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(d) The county election officer shall allow a person to assist a sick, physically disabled or illiterate voter in applying for or marking an application or advance voting ballot, provided a written statement is signed by the person who renders assistance to the sick, physically disabled or illiterate voter and submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the sick, physically disabled or illiterate voter and that the person providing assistance has completed the application or marked the ballot as instructed by the sick, physically disabled or illiterate voter.

(e) Any person assisting a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot who knowingly and willfully fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9 nonperson felony.

Sec. 3. K.S.A. 2008 Supp. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall mark or transmit to the county elec-

tion officer more than one advance voting ballot, or set of one of each kind of ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) Except as provided in K.S.A. 25-1124, and amendments thereto, no person shall interfere with or delay the transmission of any advance voting ballot application from a voter to the county election officer, nor shall any person mail, fax or otherwise cause the application to be sent to a place other than the county election office. Any person or group engaged in the distribution of advance voting ballot applications shall mail, fax or otherwise deliver any application signed by a voter to the county election office within two days after such application is signed by the applicant.

(c) *Except as otherwise provided by law, no person other than the voter shall sign an application for an advance voting ballot for such voter.*

~~(c)~~ (d) Except as otherwise provided by law, no person other than the voter, shall mark, sign or transmit to the county election officer any advance voting ballot or advance voting ballot envelope.

~~(d)~~ (e) No person, unless authorized by K.S.A. 25-1122 or K.S.A. 25-1124, and amendments thereto, shall intercept, interfere with, or delay the transmission of advance voting ballots from the county election officer to the voter.

~~(e)~~ (f) No person shall willfully and falsely affirm, declare or subscribe to any material fact in an affirmation form for an advance voting ballot, or set of advance voting ballots if the voter is entitled to vote more than one kind of advance voting ballot at a particular election, or in a declaration form on an advance voting ballot envelope.

~~(f)~~ Nothing in this section shall be construed to prohibit any person from mailing, carrying or otherwise conveying advance voting ballots or sets of advance voting ballots to the county election officer upon request of advance voting voters.

(g) A voter may return such voter's advance voting ballot to the county election office by personal delivery or by mail. Upon written designation showing the date and signature by the voter on the ballot envelope, a person other than the voter may be designated to return the advance voting ballot by personal delivery or mail. Any such person designated by the voter shall sign a statement and date such statement at the time the ballot is taken from the voter and which statement appears on the ballot envelope that such person has not exercised undue influence on the voting decisions of the voter and agrees to deliver the ballot as directed by the voter. Any person designated by a voter to deliver such voter's advance voting ballot shall mail or deliver the ballot and the designation and statement required by this section to the county election office. Such delivery shall occur within two business days after receiving the ballot from the voter but not later than the close of polls on election day.

~~(g)~~ (h) Violation of any provision of this section is a ~~class C misdemeanor~~ severity level 9 nonperson felony. No person may be found to have violated subsection (g) unless there is evidence the violation was knowingly and willfully done.

Sec. 4. K.S.A. 25-205 is hereby amended to read as follows: 25-205.

(a) Except as otherwise provided in this section, the names of candidates for national, state, county and township offices shall be printed upon the official primary ballot when each shall have qualified to become a candidate by one of the following methods and none other: (1) They shall have had filed in their behalf, not later than 12:00 noon, ~~June 10~~ June 1, prior to such primary election, or if such date falls on Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or a holiday, nomination petitions, as provided for in this act, except that in 1998, candidates for judge or district magistrate judge of the district court for positions created in 1998 in those judicial districts that have not approved the proposition of nonpartisan selection of judges of the district court shall have filed in their behalf, not later than 12:00 noon, July 1, 1998, nomination petitions, as provided for in this act; or (2) they shall have filed not later than the time for filing nomination petitions, as above provided, with the proper officer a declaration of intention to become a candidate, accompanied by the fee re-

quired by law. Such declaration shall be prescribed by the secretary of state.

(b) Nomination petitions shall be in substantially the following form:

I, the undersigned, an elector of the county of \_\_\_\_\_, and state of Kansas, and a duly registered voter, and a member of \_\_\_\_\_ party, hereby nominate \_\_\_\_\_, who resides in the township of \_\_\_\_\_ (or at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_), in the county of \_\_\_\_\_ and state of Kansas, as a candidate for the office of (here specify the office) \_\_\_\_\_, to be voted for at the primary election to be held on the first Tuesday in August in \_\_\_\_\_, as representing the principles of such party; and I further declare that I intend to support the candidate herein named and that I have not signed and will not sign any nomination petition for any other person, for such office at such primary election.

(HEADING)

Name of Signers.	Street Number or Rural Route (as registered).	Name of City.	Date of Signing.
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All nomination petitions shall have substantially the foregoing form, written or printed at the top thereof. No signature shall be counted unless it is upon a sheet having such written or printed form at the top thereof.

(c) Each signer of a nomination petition shall sign but one such petition for the same office, and shall declare that such person intends to support the candidate therein named, and shall add to such person's signature and residence, if in a city, by street and number (if any); or, otherwise by post-office address. No signature shall be counted unless the place of residence of the signer is clearly indicated and the date of signing given as herein required and if ditto marks are used to indicate address they shall be continuous and clearly made. Such sheets shall not be cut or pasted together.

(d) All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit described in this paragraph of a petition circulator who is a resident of the state of Kansas and has the qualifications of an elector in the state of Kansas or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator or the candidate, to the effect that such circulator or the candidate personally witnessed the signing of the petition by each person whose name appears thereon.

(e) Except as otherwise provided in subsection (g), nomination petitions shall be signed:

(1) If for a state officer elected on a statewide basis or for the office of United States senator, by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the state as compiled by the office of the secretary of state;

(2) If for a state or national officer elected on less than a statewide basis, by voters equal in number to not less than 2% of the total of the current voter registration of the party designated in such district as compiled by the office of the secretary of state, except that for the office of district magistrate judge, by not less than 2% of the total of the current voter registration of the party designated in the county in which such office is to be filled as certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto;

(3) If for a county office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such district or county as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto; and

(4) If for a township office, by voters equal in number to not less than 3% of the total of the current voter registration of the party designated in such township as compiled by the county election officer and certified to the secretary of state in accordance with K.S.A. 25-3302, and amendments thereto.

(f) Subject to the requirements of K.S.A. 25-202, and amendments thereto, any political organization filing nomination petitions for a majority of the state or county offices, as provided in this act, shall have a separate primary election ballot as a political party and, upon receipt of such nomination petitions, the respective officers shall prepare a separate state and county ballot for such new party in their respective counties or districts thereof in the same manner as is provided for existing parties.

(g) In any year in which districts are reapportioned for the offices of



representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before May 10 1, nomination petitions for nomination to such offices shall be signed by voters equal in number to not less than 1% of the total of the current voter registration of the party designated in the district as compiled by the office of the secretary of state.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after May 11 2, nomination petitions for nomination to the following offices shall be signed by registered voters of the party designated in the district equal in number to not less than the following:

- (A) For the office of representative in the United States congress ..... 1,000 registered voters;
- (B) for the office of member of the state board of education ..... 300 registered voters;
- (C) for the office of state senator ..... 75 registered voters; and
- (D) for the office of state representative ..... 25 registered voters.

(h) In any year in which districts are reapportioned for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas or member of the state board of education:

(1) If new boundary lines are defined and districts established in the manner prescribed by law on or before June 10 1, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on June 24 15, or if such date falls on a Saturday, Sunday or a holiday, then before 12:00 noon of the next following day that is not a Saturday, Sunday or holiday.

(2) If new boundary lines are defined and districts established in the manner prescribed by law on or after June 11 2, the deadline for filing nomination petitions and declarations of intention to become a candidate for such office, accompanied by the fee required by law, shall be 12:00 noon on July 12 3, or if such date falls on a Saturday, Sunday or holiday, then before 12:00 noon of the next day that is not a Saturday, Sunday or holiday.

Sec. 5. K.S.A. 25-4004 is hereby amended to read as follows: 25-4004. The provisions of K.S.A. 25-205, and amendments thereto, shall not apply to the offices of governor and lieutenant governor. The names of candidates for governor and lieutenant governor shall be printed upon the official primary ballot when each pair thereof shall have qualified to become candidates in one or the other of the following methods and none other: *First*, they shall have had filed in their behalf, not later than ~~twelve o'clock 12:00 noon, June 10 June 1,~~ prior to such primary election, or if such date falls on Saturday, Sunday or a legal holiday, then before twelve o'clock noon the following business day, nomination papers, commonly called nomination petitions, as provided for in K.S.A. 25-4005, and amendments thereto; or, *second*, they shall have filed not later than the time for filing nomination papers, as above provided, with the secretary of state, as hereinafter prescribed, a declaration of intention to become candidates, accompanied by a fee as provided in K.S.A. 25-4006, and amendments thereto.

Sec. 6. K.S.A. 2008 Supp. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by

mail, the voter may apply for registration and an absentee ballot by facsimile or electronic mail. The voter may also request that the county election officer transmit to such voter by facsimile or electronic mail a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile or electronic mail such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile or electronic mail, the transmittal shall contain the following statement: "I understand that by faxing or electronically mailing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer's staff shall take the steps necessary to keep the voted ballots received by facsimile or electronic mail as confidential as practicable.

Sec. 7. K.S.A. 25-205, 25-1218 and 25-4004 and K.S.A. 2008 Supp. 25-1124, 25-1128 and 25-1216 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

\_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*

**RON THORNBURGH**  
Secretary of State



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## STATE OF KANSAS

### Senate Committee on Ethics and Elections

#### Testimony on Senate Bill 426

Brad Bryant, Deputy Assistant Secretary of State  
Elections and Legislative Matters

January 27, 2010

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 426. This bill was proposed by the Secretary of State to enhance voting opportunities and to comply with two federal laws governing the voting process for military and overseas voters. There have been amendments to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and Congress passed the Military and Overseas Voter Empowerment (MOVE) Act in 2009.

The major provisions of Senate Bill 426 will allow overseas voter to:

- Vote a full ballot at all elections,
- Apply for, receive and return their ballots by email or other electronic means, and
- Vote a write-in ballot if needed.

More specifically:

Section 1—

This section will allow UOCAVA voters to vote in all elections, including special elections. Currently, K.S.A. 25-1215 limits them to primary and general elections, which leaves out special elections.

Section 2—

a. This section changes the effective period of UOCAVA voters' ballot applications from two federal general elections to one calendar year. Before 2004, Kansas law had a provision similar to the one-year application period proposed in this bill. The Help America Vote Act of 2002 (HAVA) required the period to be changed so that ballot applications would be effective from the date of submission of the application by the voter through the second succeeding federal general election, a period spanning two to four years. The MOVE Act reversed that provision from HAVA, allowing states to revert to their pre-HAVA rules.

b. This section also allows UOCAVA voters the option of applying for, receiving and returning their ballots by email or other electronic means. This is required by the MOVE Act, and it also is very similar to 2009 Senate Bill 268, which was considered by this committee last year.

We propose this provision not just because it would comply with the new federal law, but because it expands voting opportunities for a group of voters who often are in situations that make it very difficult to vote. Ballots are sent to overseas voters by county election officers beginning 45 days before the election, and Kansas law also allows the process to be completed by fax, but we find that in some cases these conveniences are not enough. Mail does not get delivered timely, and overseas voters often do not have

access to fax machines. We have learned that they are more likely to have access to the Internet than to a fax machine, so email is a better alternative for them.

Section 3—

This section allows UOCAVA voters to vote a full ballot. This provision was proposed by the Secretary of State's office last year in Senate Bill 55.

Since 1976, federal services voters' ballots have excluded two races: (1) local question submitted elections and (2) political party precinct committee positions, which are elected in the August primary each even-numbered year. Before 1976, dating back to 1943, these ballots excluded even more races. The only reason for these exclusions that we know of was that, at the time the law was passed, many overseas voters received little information about local races and thus may have been uninformed about these issues. With recent improvements in the availability of political information, especially through the Internet, we assert that federal services voters are no longer limited by this factor and thus should be allowed to vote on all issues that other voters have on their ballots. Senate Bill 426 therefore would expand voting opportunities and promote fairness and equality.

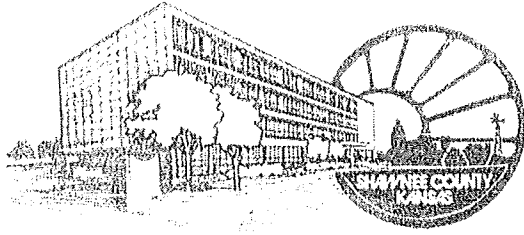
Another benefit of Senate Bill 426 would be to simplify the ballot preparation process for county election officers. They would no longer need to prepare a separate and different ballot for federal services voters. This would allow them to issue the same ballots to federal services voters as are issued to all other voters.

\*Section 3 also allows overseas voters the option of voting a Federal Write-in Absentee Ballot (FWAB) as provided for in UOCAVA. The FWAB is used when overseas voters have applied for regular ballots but the ballots were lost or not delivered. If there is not enough time to apply for a replacement ballot, voters may obtain a FWAB and write in the names of their preferred candidates for federal offices (President/Vice President, U.S. Senate, U.S. House of Representatives).

We urge the committee to recommend Senate Bill 426 favorably for passage.

For the committee's information, following are the main provisions of the 2009 MOVE Act.

- Begin distributing ballots to overseas voters 45 days before the election (this was already in Kansas law, but now it is in federal law).
- Allow overseas voters to obtain all voting information electronically.
- Collect ballot applications and transmit ballots by email or "other electronic means."
- Provide a method for overseas voters to submit Federal Write-in Absentee Ballots electronically.
- Allow overseas voters to track their ballot (whether it's been sent and received) electronically.
- Provide candidate lists electronically to overseas voters.



## Shawnee County Commissioner of Elections

Elizabeth Ensley  
Election Commissioner  
Norine Staab  
Asst. Election Commissioner

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### TESTIMONY

TO: Senator Schmidt, Chairman  
Committee on Ethics and Elections

FROM: Elizabeth Ensley  
Shawnee County Election Commissioner

DATE: January 26, 2010

RE: SB 426 – Federal Service Ballots

Thank you for allowing me to again appear before your committee in favor of expanding voting for our uniformed and overseas civilians. There are not too many times that government can increase a service and improve security while decreasing costs. Yet Senate Bill 426 does just that.

This bill helps to fully enfranchise our many men and women who are fighting for us overseas in the Reserves and National Guard units. It eliminates the expensive and complicated difference between printing a federal service absentee ballot and a regular advance voting ballot, and it ends the practice of automatically mailing ballots to voters who have been transferred.

Like most counties in Kansas, Shawnee County does not have a major active duty military base. We do however; have many Kansas National Guardsmen and woman and Reservists. **The men and women that serve in these units are Kansas residents who work here and pay their taxes here.** However, the current statutes make these voters choose between having their ballot sent 45 days prior to the election without local questions or precinct committee offices, or having an advance ballot sent through the mail 20 days prior to the election with those races on the ballot. They cannot do both. Chances are that the ballot mailed 20 days prior would not get there in time.

Additionally, SB 426 replaces wording that required federal service applications to be kept for two November general elections. This was problematic, since the military is by definition very mobile and usually does not stay in one place. That means a sizable number of ballots were sent with no one to receive them. In November of 2008, ballots were sent to 398 applicants from Shawnee County of which 303 returned ballots. The difference was mostly due to maintaining old applications. The new wording maintains the application for only one year and will help eliminate this security issue.

Senate Bill 426 also formalizes the use of electronic transmission of ballots. For many federal service voters, e-mail is the only method through which they are able to vote. **Senate Ethics and Elections Cmte**  
Date 1-27-2010

Please vote in favor of SB 426. Thank you for your time and consider **Attachment** 3

**RON THORNBURGH**  
Secretary of State



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**STATE OF KANSAS**  
**Senate Committee on Ethics and Elections**

**Testimony on Senate Bill 421**

Brad Bryant, Deputy Assistant Secretary of State  
Elections and Legislative Matters

January 27, 2010

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 421. This bill was proposed by the Secretary of State to increase the penalty for illegal voting from a class A misdemeanor to a level 9, nonperson felony.

This proposed change is consistent with a number of other actions taken by the Legislature during the past ten years to raise the penalty for election-related offenses. This proposal is especially important because it deals with the act of casting the ballot, which is the fundamental event in the electoral process.

We are vigilant about election crimes, and we work with county election officers across the state to identify instances of illegal activity and to report them when they are found. We have improved our procedures for working with local, state and federal officials who have the authority to investigate and prosecute election crimes. We are pleased that we have not found large-scale election crime or rampant corruption in our system, but we believe those cases that are discovered should be prosecuted.

We have seen some individuals prosecuted and convicted in recent years, but in some cases when there is no prosecution it is because prosecutors are reluctant to commit the time and resources to prosecute misdemeanors.

Attached to this testimony is a list of election-related felonies dealing with various parts of the electoral process. But the key act in the process, the act of casting a ballot, is not protected at the same level.

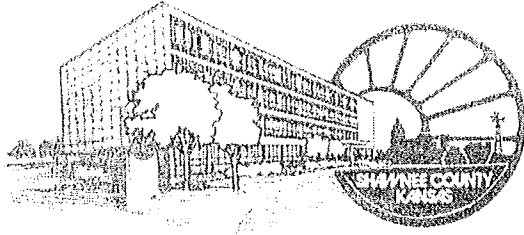
We urge the committee to report Senate Bill 421 favorably for passage to raise the crime of illegal voting to the severity level it warrants.

Following is a list of election crimes that carry the penalty of a level 7, 8, 9 or 10 nonperson felony:

- Bribery 25-2409  
Offering, conferring, soliciting or accepting a benefit for voting, not voting or voting a certain way
- Election perjury 25-2411  
Falsely swearing in response to  
- questions asked of a challenged voter,  
- questions asked of a witness,  
- statements in an affidavit prescribed by Chapter 25 or the SOS or county election officer,  
- questions asked by a county election officer related to voter registration,  
- questions asked by an election board member related to physical or language disability,  
- statements by a witness in an election contest.
- Election forgery 25-2412  
Knowingly signing another person's name to a certificate, nomination paper or petition  
Marking a person's ballot without consent  
Marking a person's ballot contrary to their direction.
- Possessing false or forged election supplies 25-2414  
Possessing altered or counterfeit poll books, tally lists or election returns
- Intimidation of voters 25-2415  
Intimidating, threatening or coercing a voter to induce them to vote a particular way or to not vote  
Mailing, publishing, broadcasting, telephoning false information to keep voters from voting
- Bribery of an election official 25-2417  
Offering or conferring a benefit to an election official to influence them to perform duties improperly
- Bribe acceptance by an election official 25-2418  
Election official's acceptance of a benefit for improper performance of duties
- Election fraud by an election officer 25-2420  
Receiving a vote from an unregistered or unqualified voter  
Receiving a vote from a person who has previously voted  
Possessing altered or counterfeit poll books, registration books, party affiliation lists, election abstracts or election paper  
Receiving or counting fraudulent, counterfeit or illegal ballots  
Issuing a fraudulent or false certificate of nomination or election  
Declaring a false election result  
Declaring election results based on fraudulent or illegal votes  
Entering the name of a person not qualified to vote on a poll book, registration book or party affiliation list  
Entering the name of a person who has not voted on a poll book, registration book or party affiliation list
- Election suppression 25-2421  
Suppressing a duly filed nomination certificate or petition  
Possessing a nomination certificate or petition and neglecting to file at proper time
- Voter registration suppression 25-2421a  
Destroying a voter registration application  
Obstructing delivery of a voter registration application to election office  
Failure to deliver a voter registration application to the election office

Unauthorized voting disclosure	25-2422
Disclosing the contents of a ballot	
Inducing a voter to show how he/she has voted	
Election tampering	25-2423
Making or changing an election record when not charged with official duties	
Voting machine fraud	25-2425
Unauthorized possession of a key	
Tampering with, altering or destroying a machine, ballot or record	
Printing and circulating imitation ballots	25-2426
Printing and circulating sample ballots other than official sample ballots	
Destruction of election supplies	25-2428
Destroying or defacing candidate lists, sample ballots or election supplies	
Destruction of election papers	25-2429
Destroying nomination certificates, papers or candidate withdrawal letters	
False impersonation of a voter	25-2431
Representing oneself as another and attempting to vote	
Advance voting suppression	25-2433
Knowingly attempting to destroy or alter a voter's advance ballot	
Obstructing delivery of ballot to voter or to election office	
Failure to deliver ballot within 2 business days	
Exercising undue influence on an advance voter	
Opening a ballot envelope to examine or disclose the ballot's contents	
Marking advance ballot for voter	25-1124(a)
Failure to sign advance voting affidavit of assistance	25-1124(c)
Exercising undue influence on assisted advance voter	25-1124(c)
False statement on voter registration application	25-2309(a), (b)(11)
Electronic voting machine fraud	25-4414
Unauthorized possession of voting equipment, computer programs, software or ballots	
Tampering with, altering, destroying a voting system or ballot	
Optical scan equipment fraud	25-4612
Unauthorized possession of ballots, optical scan equipment, computer programs, software	
Tampering with, altering, destroying optical scan equipment, software or ballots	





## Shawnee County Commissioner of Elections

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### TESTIMONY

TO: Senator Schmidt, Chairman  
Committee on Ethics and Elections

FROM: Elizabeth Ensley  
Shawnee County Election Commissioner

DATE: January 26, 2010

RE: SB 421 – Felony Voting

Thank you for hearing me on SB 421. This bill changes the crime of voting twice to a level 9 non-person felony.

Recently I provided evidence in the successful conviction of a person who voted in two counties in the 2006 November general election. In 2005, we also found a voter who voted in the township and in the city in a mail ballot election. At various times over the years, I have worked with law enforcement to provide evidence in investigations.

It is important that the statutes protect the integrity of the election and actually discourage any attempt to vote illegally. Raising this election crime to a felony will help to do that.

Please vote in favor of SB 421. Thank you for your time and consideration.

Senate Ethics and Elections Cmte  
Date 1-27-2010  
Attachment 5